

KAPLAN HECKER & FINK LLP

350 FIFTH AVENUE | 63RD FLOOR
NEW YORK, NEW YORK 10118

1050 K STREET NW | SUITE 1040
WASHINGTON, DC 20001

TEL (212) 763-0883 | FAX (212) 564-0883

WWW.KAPLANHECKER.COM

DIRECT DIAL 212.763.0889

DIRECT EMAIL shecker@kaplanhecker.com

June 24, 2024

BY ECF

Hon. Edgardo Ramos
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: United States v. Neil Cole, 19 Cr. 869 (ER)

Dear Judge Ramos:

We represent Neil Cole in the above-captioned matter. We write to request a modification to Mr. Cole's bail conditions to remove the condition that his bond be co-signed by one financially responsible person. The government has no objection to this request.

Procedural History

Mr. Cole was arrested in connection with this matter on December 5, 2019. On the day of his arrest, in compliance with the conditions of release set by the Court, Mr. Cole executed a \$1 million personal recognizance bond secured by cash. ECF No. 17. The bond also required the signature of one financially responsible person. *Id.* Consistent with this condition, the bond was co-signed by Mr. Cole's wife: Elizabeth Cole. *Id.*

On November 28, 2022, after Mr. Cole's second trial, Mr. Cole was found guilty of securities fraud, making false statements to the SEC, and misleading the conduct of an audit. ECF No. 252. On October 10, 2023, this Court sentenced Mr. Cole to 18 months' imprisonment, three years' supervised release, and forfeiture of \$790,200. ECF No. 315 (imprisonment and supervised release), 318 (forfeiture order). Mr. Cole remains on bail pending appeal, subject to the conditions first put in place in December of 2019. *See* Sentencing Transcript at 42-43, ECF No. 316.

Request for Modification of Bail Conditions

We respectfully request that the Court modify Mr. Cole's bail conditions to remove the condition that his bond be co-signed by one financially responsible person. ECF No. 17 at 2, 5.

KAPLAN HECKER & FINK LLP

2

Mr. Cole and Mrs. Cole—currently the co-signer to Mr. Cole’s bond—are now very close to finalizing a divorce agreement. “[C]onditions of bail should properly be modified if a substantial change in circumstances as they existed at the time bail was fixed is clearly shown.” *United States v. Dzhamgarova*, No. 21 Cr. 58, 2021 WL 3113036, at *1 (S.D.N.Y. July 21, 2021). In light of their divorce proceedings, we respectfully request that the Court modify Mr. Cole’s bond to remove the condition that the bond be co-signed by one financially responsible person, in order to remove Mrs. Cole from the bond.

Positions of the Government and Pretrial Services

The government has no objection to this request. Pretrial Services has indicated that it takes no position on the matter.

We appreciate the Court’s consideration and are available to discuss, should the Court have any questions.

Respectfully submitted,



Sean Hecker